## IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS2011 APR 15 PM 4: 07 AMARILLO DIVISION DEPUTY CLERK

| DAVID L. SHAW, PRO SE,        | 8              |
|-------------------------------|----------------|
| also known as                 | 8              |
|                               | 8              |
| DAVID FOUNTAIN,               | 8              |
| TDCJ-CID No. 689847,          | §              |
| Previous TDCJ-CID No. 608901, | §              |
|                               | §              |
| Plaintiff,                    | §              |
|                               | §              |
| v.                            | § 2:10-CV-0028 |
|                               | §              |
| NFN PHILLIPS, Captain,        | §              |
| <u>-</u>                      | §              |
| Defendant.                    | §              |
|                               |                |

## ORDER OF DISMISSAL

Plaintiff DAVID L. SHAW, acting pro se and while a prisoner confined in the Texas

Department of Criminal Justice, Correctional Institutions Division, filed suit pursuant to Title 42,

United States Code, section 1983 complaining against the above referenced defendants and was

granted permission to proceed *in forma pauperis*.

On March 17, 2011, a Report and Recommendation was issued by the United States Magistrate Judge recommending dismissal of the instant cause with prejudice as frivolous.

The period for response has expired, and no objections have been filed by plaintiff.

The Court has made an independent examination of the records in this case and has examined the Magistrate Judge's Report and Recommendation. The Court is of the opinion that the Report and Recommendation of the United States Magistrate Judge should be ADOPTED by the United States District Court.

This Court, therefore, does hereby ADOPT the Report and Recommendation of the United States Magistrate Judge in this case.

IT IS THEREFORE ORDERED that the Civil Rights Complaint by plaintiff DAVID L. SHAW is DISMISSED WITH PREJUDICE AS FRIVOLOUS.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Any pending motions are DENIED.

The Clerk shall send a copy of this Order to plaintiff and to any attorney of record. The Clerk shall also mail copies of this order to TDCJ-Office of the General Counsel, P.O. Box 13084, Austin, TX 78711; and to the Pro Se Clerk at the U.S. District Court for the Eastern District of Texas, Tyler Division.

It is SO ORDERED.

Signed this the day of April, 2011.

United States District Judge